FOR MYSORE STATE

closed KW Supdt

95,000 31 10 53.

H E L A (1954) Department.

Ms SERIES.

G.O. NO. 243 Health

Dated 2/2/54

Pp 19-20 CF

[Despatch Abstract.]

Licence - Udipi Municipality - Lakshmi Mills - Replacement of a 10 H.P oil engine by a 10 H.P electric motor - Refusal of permission - Resolution no 16 dated 31-3-53 - Cancellation of - Orders passed

R.O.C.No.C1-614/53.

Municipal Office, Udipi,
Dated 14-10-1953.

From
Sri U. S. Nayak,
Chairman,
Municipal Council, UDIPI.

To
The Secretary to Government,
Health Department,
Fort St. George, MADRAS.

****

Sir,

Subject:- LICENCE - Udipi Municipality - Replacement of a 10 H.P. Oil Engine by a 10 H.P. Electric motor in Lakshmi Mills - Refusal of permission - Resolution No.16 dated 31-3-1953 - cancellation of - show cause notice.

Ref:- G.O.Ms.No.3393, Health, dated 16th September 1953.

SECRETARY 19 OCT 1953 HEALTH DEPARTMENT

55322

Adverting to para 2 of the G.O. above referred to I am to forward herewith a copy of Council's resolution No.15 dated 10-10-1953. The resolution being self-explanatory, I do not desire to state anything by way of further elucidation.

2. I regret to note that the Government did not furnish me with a copy of the letter of Sri T.Anant Pai, M.L.A., referred to in G.O.Ms.No.3393, Health, dated 16-9-1953.

3. In the penultimate para of his report dated 16-7-1953 in reply to the letter R.No.40688-2 Hyg.(2)/53 dated 18-5-1953 of the Director of Public Health, Madras, the Municipal Health Officer has recorded as follows:-

"I am of opinion that the resolution of the Municipal Council dated 31-3-1953 is irregular and incorrect, as no reasons have been recorded for the rejection. It has been also against the recommendation of the Municipal Health Officer and could have been referred to the Director of Public Health, Madras, instead of rejecting it without giving any reasons whatsoever." I feel the Municipal Health Officer has not been fair to the Council in making these observations against the Council's resolution. He has all along been attending every meeting of the Council as one of its Executive Officers. He has also been given opportunities to explain to the Council his points of view on matters relating to Public Health and the like, and his views have invariably been respected by the Council. He attended the meeting held on 31-3-1953 and it was then open to him to request Council to record reasons for rejection or to refer the matter to the Director of Public Health. He did neither. As such his

subsequent remarks against the Council's decision, to say the least, are uncalled for.

4. A copy of the minutes of dissent on resolution No.15 dated 10-10-1953 together with a copy of my forwarding remarks thereon and the following files are enclosed.

(1) File C.No.- 614/53 (24 pages).
(2) Plan of the Locality.
(3) File L.Dis.No.6804/52 (34 pages).
(4) File L.Dis.No.1402/53 (4 pages)
(5) File L.Dis.No.2675/53 (4 pages).

I request that the records be returned soon after orders are issued.

Yours faithfully,

Chairman,
Municipal Council,Udipi.

Bks.

16.10.53

Copy of Resolution No.15 dated 10-10-1953 of the Municipal Council, Udipi.

- - - - -

(N) 2931 G.O.Ms.No.3393, Health, dated 16-9-1953 stating that the resolution of the Municipal Council No.16 dated 31-3-1953 deserves to be cancelled for the reasons stated therein and calling upon the Municipal Council to show cause within one month why action should not be taken by the Government under section 252 of the Act in the matter. p14 (Y)

p20 (Y) Resolutions No.16 dated 31-3-1953 and No. 1 dated 25-4-1953 of the Municipal Council and other connected papers (C.No.614/53). 61 (Y)

RESOLUTION:-

Sri A. Manjunath Rao moves that the following reasons be given. Shrimathi Manorama Devi seconds.

"This Council resolves to inform the Government as follows- that

(W) (1) The principles laid down in Appendix to G.O. No.4054, P.H. dated 3-9-1940, contemplating grant of permission as a matter of course for replacement of oil engines by electric motors of the H.P. not exceeding those of the oil engines is subject to the conditions prescribed in Paras 3 to 5 of the said appendix.

(2) The Council was not convinced beyond doubt that the proprietors were permitted or authorised by the competent authority to instal the oil engine and that its horse power was 10;

(3) the proprietors did not produce the license, if any, under section 249 of the Madras District Municipalities Act or under Section 193 of the Madras Local Boards Act, obtained by them for the year, viz. 1935, in which this municipality was inaugurated, which license would have mentioned the H.P. of the engine now sought to be replaced and from which an inference could have been drawn that the installation was an authorised one;

(4) If the engine is of '35 model as revealed from the answers to the interpellations the contentions of the applicants that the same was installed 20 years back cannot be accepted as correct;

(5) The Council had to pay due regard to the several complaints from the residents in the neighbourhood about the noise and the nuisance caused by the working of the Oil Engine

and other electric motors installed by the applicants in the buildings in the same compound;

(6) The proprietors sought to replace the oil engine by an electric motor only after the M.H.O. on an inspection on 11-12-52 on the complaint of the members of the public found out that they did not possess the installation license for the oil engine and that the installation was unauthorised;

(7) Satisfactory explanation was not forthcoming from the M.H.O. for not taking steps all these years and until the complaints were received to get the oil engine removed and shifted to the declared industrial area under the G.O. mentioned above;

(8) The Council was of the opinion that grant of permission would be prejudicial to the health and comforts of the people living in the locality which has now become densely populated and causing noise and nuisance to them however less they may be.

(9) The application of the proprietors ought to have been placed before the Council in the first instance as required by section 250(3) of the M.D.M.Act 1920;

(10) The question of consulting the M.H.O. and paying due regard to his opinion under section 250(4)(b) of the Act would arise only, if and when the Council decides to grant the permission applied for;

(11) For refusal of permission neither consultation with nor recommendation of the M.H.O. is necessary.

(12) The Council was not bound to accept the unsolicited recommendation of the M.H.O. in this case, (especially) when the Council did not want to grant the license;

(13) The question should be referred to the D.P.H. whose decision shall be final under G.O. No.4054, P.H., dated 3-9-1940 only in cases when the Council wants to grant permission against the recommendation of the M.H.O. not to grant it, which is not the position in this case;

(14) The Council feels that its primary duty is to do justice to the public by making them live happily and peacefully and then to individuals and that in this sense its resolution I.c.16 dated 31-3-1953 did meet the ends of justice to the public of the locality even though incidentally it might not have done so to the particular

applicants; and

(15) In any event, this is not, in the opinion of the Council a case in which the Government can intervene under section 252 of the Act and cancel, on merits, the well considered decision of the Council rejecting the permission applied for.

The Chairman is authorised to communicate to the Government this resolution with all connected papers and files."

Sri P.V.Achar raised a point of order that the G.O. in question does not call for any reasons as to why the license was refused and that the reasons suggested by Sri A.Manjunatha Rao are ultra vires and is no answer to the question in the G.O.

Ruling:- The Government wants the council to show cause. Without assigning reasons, it is not possible to reply the Government. The point of order is overruled.

Sri K.K.Pai opposes on the ground that none of the reasons of Sri Manjunath Rao except the one that the party was not able to produce installation license were stated at the time and also para 12 of the reasons given by Sri A.Manjunatha Rao. The resolution was put to vote and declared carried, 10 voting for and 6 against. M/s. K.K.Pai and P.V.Achar demanded a poll.

Ayes.	Noes.
1. Srimathi Manorama Devi.	1. Sri K. K. Pai.
2. Sri A.Manjunath Rao.	2. Sri K. Devendra Shenoy.
3. Sri I.Raghurama Shetty.	3. Sri P.V. Achar.
4. Sri B.S. Acharya.	4. Sri K. Prabhakara Pai.
5. Sri K.Dasa Sherigara.	5. Dr. K.L. Aithal.
6. Sri M.Panduranga Shenoy.	6. Sri U.S. Imam Saheb.
7. Sri M. Vittal Shetty.	
8. Sri K. Rama Rao.	
9. Sri N.Seetarama Kamath.	
10. Dr. P.V.Vyasa Rao.	

(Sd.) U. S. Nayak,
Chairman,
Municipal Council, Udipi.

/TRUE COPY/

2/4 Chairman,
Municipal Council,Udipi.

The Minute of Dissent to the Proceedings of the Ordinary Meeting of the Municipal Council held on Saturday the 10th October, 1953 at 5 P.M. at the Municipal Office, Udipi.

- - - - -

Item No. 7

** ** ** **

Item No. 8.

** ** ** ** **

Item No. 15 of the Agenda:- The Council has not understood the spirit of the G.O.Ms.No. 3393, Health, dated 16-9-1953 of the Government and the scope of their authority. The Councillors who were responsible for passing the resolution of the Municipal Council, No. 16 dated 31-3-1953, rejecting the licence, have wholly misunderstood the G.O. above referred to. The G.O. above referred to, expressly brings to the notice of the Council that the resolution No.16 dated 31-3-1953 deserves to be cancelled on the ground that the action of the Council in passing the said resolution does not meet the ends of justice. Despite this fact, the Councillors who were responsible for the injustice done to the petitioner, still persist in their wrong attitude. They do not seem to have taken the G.O. in question in the proper spirit as required by the provisions of Section 252 of the M.D.M.Act. They have failed to take advantage of the conciliatory attitude shown by the Government in the above G.O. The Government could have straight away superceded the resolution of the Council which on its very face was opposed to the principles laid down in the G.C. No.4054, P.H., dated 3-9-1940, governing the grant of licences in question. But in this case, the Government was pleased to give an opportunity to the Council itself to reconsider its decision and to undo the injustice done by it to the petitioner and thus to take the credit for having done justice. In these circumstances, the proper course for the Council was, as suggested by us in the Council, to grant the licence to the petitioner and to inform the Government of the Council's action. So the resolution moved by Sri A.Manjunatha Rao, embodying certain reasons for rejecting the licence, is uncalled for and is ultra-vires of the powers of the Council, as being outside the scope of the agenda in as much as they are not the reasons embodied in the Council resolution No.16 dated 31-3-1953 rejecting the licence. In fact the Council

resolution No. 16 dated 31-3-1953, has not assigned any reasons for rejecting the licence as is quite clearly evident from the Council proceedings of the meeting dated 31-3-1953, as required by the G.O.No.4054, P.H., dated 3-9-1940 governing the grant of permission for substituting an electric motor for an oil engine. Hence the Council's resolution No.16 dated 31-3-1953 rejecting the licence, is on the face of it, capricious and arbitrary and is opposed to all rules of natural justice, equity and good conscience, besides being opposed to the G.O.No.4054, P.H., in question. When that is so, all reasons now set forth by Sri A.Manjunatha Rao, in his resolution moved in this meeting, are besides the point, because, they were, not the reasons urged at the previous meeting dated 31-3-1953 when rejecting the licence. No doubt some suggestion was made at the beginning of the previous meeting dated 31-3-1953 that the petitioner should produce the original installation licence. But when the suggestion was met by an answer that this very Municipality had granted to the petitioner a series of renewal licences every year since the Municipality was started, even this objection was given up as is evident from the fact that the resolution No.16 dated 31-3-1953 rejecting the licence, does not give any reason for any such rejection. So, all the reasons now set up by Sri A.Manjunatha Rao are wholly an after thought and cannot in any event be valid to sustain a past action without assigning any reasons. It may be worthwhile to consider the grounds of Sri A.Manjunatha Rao at least to some extent. The G.O.No.4054, P.H., dated 3-9-1940, while not requiring the assignment of any reasons for granting permission, expressly requires that the Council should assign reasons for rejecting the permission applied for. The ground No. 2 in his resolution, is not correct. In fact, nobody in the Council at its meeting held on 31-3-1953 had any doubt either about its authority to instal an oil engine or that its H.P. was 10. His ground No. 3 about the installation licence is frivolous in view of the fact that the Municipality has been throughout granting renewal licence and the presumption is that every act of a public officer is done lawfully, and the renewals must have been granted only after such officers of the Municipality were satisfied about the installation licence. Several Commissioners and Health Officers

have been in charge of this Municipality since 1935 and we are not to presume that every one of them had been negligent of in their duties. It may be worthwhile to bring to the notice of the Collector, that though the Commissioners and the Health Officers have come and gone, there has been no change in the Office of the Manager, and it is unlikely that, if at any time, there was any irregularity in the matter of granting of renewals to the petitioner, such as the absence of the original installation licence now made much of by Sri A.Manjunatha Rao, it could have escaped the notice and knowledge of the Manager. Ground No. 4 removes all doubts about the genuineness of all the grounds explained in the resolution. Here it is perfectly revealed that this objection could not have been raised in the Council Meeting dated 31-3-1953 as the objection itself is based on the answers to the interpellations of Sri A.Manjunatha Rao dated 30-9-1953 given in the Council Meeting held on 10-10-1953, i.e., the same meeting in which the reasons for rejection of the licence are enumerated by hi in his resolution. It proves that all the objections and reasons enumerated in the resolution were clearly an after-thought. Sec. 250 of the Act relied upon by Sri A.Manjunatha Rao has no application to the facts of this case for rejecting the permission to the petitioner, as the application of the petitioner was only for the substitution of an electric motor for an already existing oil engine of the same horse power. His ground that the M.H.O. should be consulted only when the Council decides to grant the permission and that no such consultation is necessary when the Council wants to refuse the permission, is putting the cart before the horse. If anybody's report has any value in the matter, it is certainly that of the Health Officer and if there is any Officer to be consulted in the matter it is again the Municipal Health Officer. Sri A. Manjunatha Rao and the Councillors who have supported the resolution consider the recommendation of such an important officer of the Municipality as an unsolicited one. Sri A. Manjunatha Rao in substance, lays down an arbitrary and capricious procedure of judging the fate of the public and it gives the

basis of the judgement of the Councillors who supported the Council Resolution No.16 dated 31-3-1953 rejecting the licence. It appears as if Sri A.Manjunath Rao finds fault with the M.H.O. for submitting his opinion in the matter, and expects the M.H.O. to know the decision of the Council even before the Agenda is sent to the Councillors. This is a ridiculous stand, and we fail to understand the significance of his characterising the M.H.O's. recommendation as unsolicited one. It is regrettable that the recommendations of such a responsible officer of the Municipality submitted in the usual course of discharging his duties should be characterised as unsolicited..

While appreciating the anxiety of Sri A.Manjunatha Rao for the peace and happiness of the public in preference to those of the invidùals, we depose that the rights and privileges of individuals are equally sacred and cannot be sacrificed for the mere peace and happiness of the public. Sec. 251 of the Act only contemplates abatement of any nuisance but does not contemplate absolute rejection of a licence or permissions on that ground.

In these circumstances, the reasons set out by Sri A.Manjunath Rao besides being an after-thought, are not tenable in law. We hereby record our dissent against the said resolution. It is a fit case where the Council ought to have accepted the decision of the Government in order to undo the injustice done to the petitioner, instead of trying to add insult to injury by trying to defend the injustice done to the petitioner.

Yours faithfully,
(Sd.) K.K. Pai, B.Com.
(Sd.) K.Devendra Shenoi.
(Sd.)K.Prabhakara Pai, B.Sc.
(Sd.) P.V. Achar, B.A., LL.B.
(Sd.) Mrs. Manorama Acharya, B.
(Sd.) K. L. Aithala.

/TRUE COPY/

3/4 Chairman,
Municipal Council, Udipi.

Bks.

From Sri U.S.-Nayak, Chairman, Municipal Council, UDIPI.

To The Collector of South Kanara, MANGALORE.

L.Dis.5851/53 dated 15-10-1953.

I forward herewith in original the minutes of dissent signed and submitted by Six Councillors on the resolutions on items 7, 8 and 15 of the agenda for the ordinary meeting of the Council held on 10-10-1953 at 5-0 p.m.

2. At the outset I have to point out that one of the Councillors, Sreemathi Manorama Acharya, who has subscribed to the minutes of dissent on all ~~xxx~~ items, left the meeting, with the permission of the Vice-Chairman then presiding over the meeting, immediately after item 7 was disposed of. It is rather surprising that she should sign the minutes of dissent on the resolutions on items No. 8 and 15 also despite her absence at the meeting when the subjects were discussed, and disposed of.

3. Item 7 - ** ** **

4. Item 8 - ** ** ** **

5. Item 15:- The points raised in the minutes of dissent on the resolution of Sri A.Manjunatha Rao have been discussed in detail. Two issues emerged from the discussion. They are (i) whether G.O.Ms.No.3393, Health, dated 16-9-1953, was in the nature of a direction or advice to the Council to grant the permission applied for by the proprietors of the Lakshmi Mills, and (ii) whether the question cannot be considered de novo from and in all its aspects with a view to make a suitable recommendation to the Government, whatever be its resolution No.16dated 31-3-1953. The Government order clearly called upon the Council to show cause within one month why action, under section 253 of the M.D.M.Act, 1920, should not be taken. The issue before the Council was therefore not one of grant or otherwise of the permission applied for by the Lakshmi Mills but one of showing cause why its Resolution No.16 dated 31-3-1953 should not be cancelled. Thus it was neither in the nature of direction or advice to the Council. Nevertheless, the whole question was considered de novo in all its aspects and with detachment. Yet, the Council could not persuade itself to agree to the Government

cancelling the resolution No. 16 dated 31-3-53 for the several weighty reasons enumerated in the resolution of Sri A.Manjunath Rao. On the other hand the Council found itself obliged to impress upon the Government that this was not a fit case for their intervention under Section 259 of the Madras District Municipalities Act, also for the same reasons stated in the resolution. The result was the Council passed the resolution, 10 voting for and 6 against.

Evidently the dissenting members seem to have proceeded on the basis and assumption that the issue before the Council was the grant of permission to the Lakshmi Mills to replace 10 H.P. Oil Engine by an Electric motor of the same H.P. and that the Council by passing its present resolution sought only to justify its stand in refusing to grant the permission in its resolution No.16 dated 31-3-1953. Their approach to the question being wrong, the arguments put forth in the minutes of dissent must necessarily, and do, fall through.

Anyhow, the resolution with the corrected papers will be submitted to the Government who, it is presumed, will issue suitable orders. The minutes of dissent do not, therefore, deserve any consideration by the Collector.

/TRUE COPY/

Chairman,
Municipal Council, Udipi.

bks.

55322/53

1

Health (T3)

1

36/28/10

Sub Licence. Ndipi Municipality Replacement of a 10 H.P. oil engine by a 10 H.P. electric motor in Lakshmi Mills - Refusal of permission - Resolution No 16 dt 31-3-53 - Cancellation of. Show cause notice - Reply to

Ref: from the C.M.C, Ndipi, Roc no C1 - 614/53 dt 14/10/53

Memo 55322/53. I-T Health dt. 28/X/53

The letter from the C.M.C Ndipi cited together with its enclosures, is forwarded to the D.P.H for urgent remarks

2 The D.P.H is requested to send this office files connected with the Case for reference and return while sending his reply to para 1 of the memo

DD/28/10

SK/28/10

MSWO

MRR 29/10/53

MRR 28.10.53

To the D.P.H

(with pages 1-12 of ni orgl to be returned with a reply)

(with enclosures)

(nl files)

15.

PUBLIC HEALTH DEPARTMENT

From Dr.K.S.Viswanathan, M.P.H.(Harvard),
Director of Public Health, Madras-6.

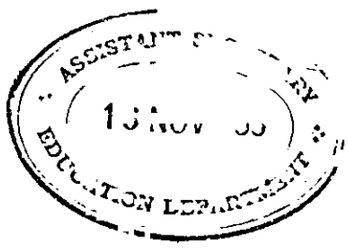
To The Secretary to Government,
Health, Education and L.A.Department,
Fort St.George, Madras-9.

L.Dis.85949-3-Hyg-3-53 Dated: 17-11-53.

.....

63382

Sir,



Sub: LICENCE--Udipi Municipality--Replacement of a 10 HP oil engine by a 10 HP electric motor in Lakshmi Mills--Refusal of permission--Resolution No.16 dated 31-3-53--Cancellation of--Show cause notife--Reply ~~xf~~ to.

Ref :q Govt.Memo.55322-53-1-T-Health dated 28th October, 1953.

.....

I offer the following remarks on the various reasons mentioned in Resolution No.15 dated 10th October, 1953 of the Municipal Council, Udipi:-

Reasons 1 to 9, 12, 13 and 14:- The question under issue relates to grant of permission for the replacement of an oil engine by an electric motor of the same horse power and should be allowed as a matter of course with reference to para 2 (1)(b) of the appendix to G.O.No.4054-PH dated 3-9-40--The reasons put forth are not relevant to the point at issue.

Reasons 10 and 11:- Attention is invited to G.O.No.284-Health dated 27th January, 1951 according to which all local bodies should consult their health officials and get their opinion before granting or refusing permissions for installations.

Reason 15:- This is incorrect, as under Section 252 of the M.D.M.Act, the Government is empowered to make such order or give such directions as they deem fit in respect of any action taken or omitted to be taken under Section 250 or Section 251.

2. As regards the matter referred to in para 3 of the Chairman's letter, I do not find anything objectionable in the action of the Municipal Health Officer.

3. The reasons advanced in the Municipal Council's Resolution are untenable--The resolution of the Municipal Council No.16 dated 31-3-53 may therefore be cancelled.

4. The enclosures recevied from Government and this Office file are enclosed.

Y---- ----ully,

17/11/53

for Director of Public Health, Madras.

Sam 171153.

LEGISLATIVE ASSEMBLY * MADRAS *

55322/53

H5 A-511 17

"Mukund Nivas",
UDIPI,
27th November 1953.

CONFIDENTIAL &
PERSONAL

SECRETARY :: 1-DEC1953 :: EDUCATION DEPARTMENT

Sec. H.E. & L.A.
Please look up early.
05/12/53
1/12

Dear Sri Shetty,

You remember, I had written to you about the case of Messrs. K.K.Shenoy & Sons, Udipi, whose application for a licence to install a 10 H.P. Motor in the place of the already existing engine, was rejected by the Municipal Council on account of local party politics contrary to the Government G.O. existing in force in this behalf. I trust, the Government is in possession of all the facts and I request you to see that justice is done to the parties. A

MINISTER FOR HEALTH 1-DEC1953 68128 A/53 GOVERNMENT OF MADRAS

55322/53

With kind regards,

I am,
Yours sincerely,

(T. ANANT PAI)

Hon'ble Sri A.B.Shetty,
Minister for Public Health,
Government of Madras,
MADRAS.

S 2/12

18

HELA

H V

The main file on the subject referred to at

"A" complaint has been sent to Law (Scrutiny) and the receipt of it is still awaited. Before orders issue in the file, the case will be circulated to M (H)

(No action is therefore called for at present. May be added to the main file on its receipt)

3/12/53

4/12/53

HEL A Dept.
HT

Sub: Licence – Udipi Municipality – Lakshmi Mills-Replacement of a 10 H.P. oil engine by a 10HP electric motor – Refusal of permission – Resolution no. 16 dated 31.3.53 – Cancellation of – Orders passed

Read again:- Go (Ms) no 3393 Health dt 16.9.53.

Read also:-

From the Chairman ml council Udipi, Roc no. C1-614/53, dt 14/10/53

From the DPH Lr dis 85949-31Hyg-3-53, dt 17.11.53

—x—

Order (Ms) 243 Health, dt 2-2-54

In Go (Ms) no 3393 Health dated 16.9.53 the Udipi ml. cl was called upon to show cause within a month from the date of receipt of the order why action should not be taken by the Govt under Sec 252 of the M. & M. Act to cancel its resolution no 16 dated 31.3.53 for the reasons set forth in paragraph 2 of that order. The ml council, Udipi, has since sent its reply embodying all the reasons against the action proposed to be taken by the Govt for the cancellation of its resolution dated 31.3.53, in another resolution @ no 15 dated 10.10.53. ✓ in

2 The Govt have carefully examined the reasons adduced by the ml cl in its resolution no 15 dated 10.10.53 in consultation with the DPH and they proceed to pass the following orders.

Reasons (1) to (9), (12), (13) and (14) :-

The question under issue relates to the grant of permission for the replacement

P.T.O

of an oil engine by an electric motor of the same horse power and this should have been allowed as a matter of course. The reasons put forward are not relevant to the point at issue. The Ml. cl should have recorded the reasons now put forward even in the first instance before passing its resolution no 16 dated 31.3.53.

Vide 'X' on p 15 of

(Y) / p 14

Reasons (10) and (11) The attention of the Mudipi Ml. cl. is invited to the orders of Govt in Go no 284 Health dt 27.1.51 according to which all local authorities should consult their health officials and get their opinion before granting or refusing permission for installations

(X)

Yon p 15 of

Reason 15. The contention of the Municipal Council is incorrect as under Section 252 of the MDM Act the Govt are empowered to make such orders or give such directions as they may deem fit in respect of any action taken or omitted to be taken under Section 250 or Section 251.

Pending

'Z' on p 15 of

page 464 of Madras Code

3/12. In the circumstances stated above, the Govt regret that they are unable to accept the explanation of the Ml. cl. to the show cause notice issued in the Go read above in the circumstances stated above and they have decided to confirm the orders in Go no 3393 Health dt 16.9.53

(T)

They, accordingly direct under Section 252 of the M.D.M Act that the Resolution of the Mudipi Ml. cl no 16 dated 31.3.53 and is hereby be Cancelled.

3/11/53 KMS 27.11.53

4/12/53

SAS 11.12.53

They also hereby direct that permission be granted to the Proprietor of the Lakshmi Mills, Mudipi, for the installation of a 10 H.P. electric motor in lieu of the 10 H.P. oil engine

Page 4 Item 1 sent by R.P. dtd 3/12/53

The Commr Mudipi informed (thro the CMC) with ml. file at (Y) by R.P.

D.P.H (with his office file at (U)

Health, Education and Local Administration Department.

G.O.(Ms). No.243 Health, dated 2nd February, 1954.

ABSTRACT.

LICENCE--Udipi Municipality--Lakshmi Mills--Replacement of a 10 H.P. oil engine by a 10 H.P. electric motor--Refusal of permission--Resolution No.16 dated 31-3-53--Cancellation of--Orders passed.

READ AGAIN: G.O.Ms.No.3393 Health, dated 16-9-53.
READ ALSO: From the Chairman Municipal Council, Udipi, Roc.No.C1-614/53, dated 14-10-53.
From the Director of Public Health, L.Dis. 85949-3 Hyg.3-53, dated 17-11-53.

ORDER:

In G.O.Ms. No.3393 Health, dated 16-9-53 the Udipi Municipal Council was called upon to show cause within a month from the date of receipt of the order why action should not be taken by the Government under Section 252 of the Madras District Municipalities Act to cancel its resolution No.16 dated 31-3-53 for the reasons set forth in paragraph 2 of that order. The Municipal Council, Udipi, has since sent its reply embodying the reasons against the action proposed to be taken by the Government for the cancellation of its resolution dated 31-3-53, in another resolution No.15 dated 10-10-53.

2. The Government have carefully examined the reasons adduced by the Municipal Council in its resolution No.15 dated 10-10-53 in consultation with the Director of Public Health and they proceed to pass the following orders.

Reasons (1) to (9), (12), (13) and (14): The question under issue relates to the grant of permission for the replacement of an oil engine by an electric motor of the same horsepower and this should have been allowed as a matter of course. The reasons put forward are not relevant to the point at issue. The Municipal Council should have recorded the reasons now put forward even in the first instance before passing its resolution No.16 dated 31-3-53.

Reasons (10) and (11): The attention of the Udipi Municipal Council is invited to the orders of Government in G.O.No.284 Health, dated 27-1-51 according to which all local authorities should consult their health officials and get their opinion before granting or refusing permission for installations.

Reason 15: The contention of the Municipal Council is incorrect as under section 252 of the Madras District Municipalities Act the Government are empowered to make such order or give such directions as they may deem fit in respect of any action taken or omitted to be taken under section 250 or section 251.

3. In the circumstances stated above, the Government regret that they are unable to accept the explanation of the Municipal Council to the show cause notice issued in the G.O. read above and they have decided to confirm the orders in G.O.No.3393 Health, dated 16-9-53. They, accordingly direct under section 252 of the Madras District Municipalities Act, that the resolution of the Udipi Municipal Council No.16 dated 31-3-53 be and is hereby cancelled.

(P.T.O.)

They also hereby direct that permission be granted to the proprietor of the Lakshmi Mills, Udipi for the installation of a 10 H.P. electric motor in lieu of the 10 H.P. oil engine.

(By order of the Governor)

S.A. Subhan,
Deputy Secretary to Government.

To
The Commissioner, Udipi Municipality,
through the Chairman Municipal Council).
(with enclosure by RP
The Director of Public Health.(with enclosure).

True copy/Forwarded/By order

SUPERINTENDENT.
3/12/54

VPS.2/2.

S/C

HELA
HV

Sub Licence - Udipi Municipality - Lakshmi Mills - Replacement of a 10 HP oil engine by a 10 HP electric motor. Refusal of permission - Resolution No 16 dated 31.3.53 - Cancellation of Reply to show cause notice

Ref: from the CMC Udipi, Roc no. C1-614/53 dt 14.10.53

From the D.P.H Lr dis 85149-3 Hyg-3.53 dt 17.11.53.

—— x ——

In G.O.no 3393 Health dt 16.9.53 the Govt called upon the Udipi Ml.cl. to show cause within a month from the date of receipt of the G.O. why action should not be taken by them under Sec 252 of the M.D.M Act to cancel its resolution no 16 (N) dated 31.3.53. The Udipi Ml.cl has since submitted its explanation in its resolution no 15 dated 10.10.53. The reasons adduced by the Ml.cl against the action proposed to be taken by the Govt have been examined in consultation with the D.P.H. The Dir. considers that they are all untenable. He recommends that the resolution of the Ml.cl no 16 dt 31.3.53 may be cancelled by the Govt. ~~It is proposed to accept~~ The Dir's recommendations may be accepted

The draft order below meets fully the reasons adduced by the Ml.cl in its resolution dt 10.10.53

Govt may see no for scrutiny of the draft and remarks if any. (prior to Circulation)

27/11/53 KMS 27.11.53 / 12/53

1/12/53

Law (Sec'y)

ASSISTANT SECRETARY 2 DEC 1953 18674 LAW DEPARTMENT, MADRAS

HELA no 55322/53-2 Health V

1/12/53

2

5332

Law Dept

Seen in Law
GS
30.12.53

K Clk
30/12/53
D.S

1326
7/1.

HS

Law WO
18674/534
31.12.53

HEALTH

Health Edn+
LA Dept
HS

Summarising note.

The case relates to the Cancellation of the resolution of the Nidipi M.C. dd No 16 dated 31.3.53 in which the M.C. Council refused to grant permission to the Proprietors of the Lakshmi Mills Nidipi, on the ground that the applicant was not able to produce the original sanction granted to him for the installation of an oil engine in the mill premises.

The draft order below is self explanatory and it has been seen by Law Dept. It may issue after approval by M(H)

W+T. minute

4/1/54 KMS 4/1/54 4/1/54 GS

S.H. Sridhar
6.1.54

M(H) a sentence may be added to the draft asking the municipality to grant the permission applied for

8/1

As minuted by M(H) a sentence has been added to para 3 of the draft order. ~~It seems appropriate to~~

P.T.O.

Perhaps Law may be requested to advise whether the direction to the Council as in parag 3 of the draft (as added to) will be in order

9/1/54 9.1.54 11/1/54

SLS 12/1/54

H5

HELA 55322/533-Health 15.1.54

Law (Opn)

ASSISTANT SECRETARY 1255 18 JAN 1954 LAW DEPARTMENT, MADRAS

Law Department

The addition made in pencil to the draft order is in order. It is competent for the Government to give that direction by virtue of the powers conferred on them by section 252 of the M.D.M. Act.

30/1/54

HF. 1 ~~H5~~ HELA

We may be able to justify the direction in view of the rather wide language of section 252 of the M.D.M Act. I do not wish to put it higher than that.

KCK 30/1/54

HELA

Law (O) (2) 1255/54-1 30.1.54.

ASSISTANT SECRETARY TO GOVT. 1 FEB 1954 10067 HEALTH, EDN. & LOCAL ADMN. DEPT.

Please see the note of the Law Deptt above the draft as added to may now issue.

2/2/54 2.2.54 2/2/54